

Farm Credit Administration

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repayment or interest payment required by the loan instrument is not received on or before the due date. A loan shall remain contractually past due until it is formally restructured or until the entire amount past due, including principal, accrued interest, and penalty interest incurred as the result of past due status, is collected or otherwise discharged in full.

(d) *Other property owned* means any real or personal property, other than an interest-earning asset, that has been acquired as a result of full or partial liquidation of a loan, through foreclosure, deed in lieu of foreclosure, or other means.

§ 621.7 Rule of aggregation.

(a) When one loan to a borrower is placed in nonaccrual, an institution must immediately evaluate whether its other loans to that borrower, or related borrowers, should also be placed in nonaccrual. All loans on which a borrowing entity, or a component of a borrowing entity, is primarily obligated to the reporting institution shall be considered as one loan unless a review of all pertinent facts supports a reasonable determination that a particular loan constitutes an independent credit risk and such determination is adequately documented in the loan file.

(1) A loan shall be considered an independent credit risk if a substantial portion of the loan is guaranteed as to principal and interest by a government agency.

(2) Other loans shall be considered independent credit risks if and so long as:

(i) The primary sources of repayment are independent for each loan;

(ii) The loans are not cross-collateralized; and

(iii) The principal obligors are different person(s) and/or entity(ies). Related loans will not be considered independent credit risks if the operations of a related borrower are so financially interdependent with the borrower's operations that the economic survival of one will materially affect the economic survival of the other, determined in accordance with § 614.4359(a)(2) of this chapter.

(b) If the evaluation required by paragraph (a) of this section results in

a determination that the borrower's other loans with the institution do not represent an independent credit risk, and full collection of such loans is not expected, then all of the borrower's loans must be aggregated and classified as nonaccrual. If such other loans represent an independent credit risk and are fully collectible, then they may remain in their current performance category.

(c) When an institution becomes aware that a borrower has a loan that has been classified nonaccrual by any other lender, the institution must re-evaluate the credit risk in its loan to the borrower and then determine whether an independent credit risk exists.

[58 FR 48786, Sept. 20, 1993, as amended at 64 FR 34519, June 28, 1999]

§ 621.8 Application of payments and income recognition on nonaccrual loans.

Each institution shall employ the following practices with respect to application of cash payments on nonaccrual loans:

(a) If the ultimate collectibility of the recorded investment, in whole or in part, is in doubt, any payment received on such loan shall be applied to reduce the recorded investment to the extent necessary to eliminate such doubt.

(b) Once the ultimate collectibility of the recorded investment is no longer in doubt, payments received in cash on such loan may qualify for recognition as interest income if all of the following characteristics are met at the time the payment is received:

(1) The loan does not have a remaining unrecovered prior chargeoff associated with it, except in cases where the prior chargeoff was taken as part of a formal restructuring of the loan;

(2) The payment received has come from a source of repayment detailed in the plan of collection;

(3) The loan, after considering the payment, is not contractually past due more than 90 days and is not expected to become 90 days past due, or a repayment pattern has been established that reasonably demonstrates future repayment capacity.

(c) The institution shall employ the following practices with respect to

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earned but uncollected interest income on loans, leases, contracts, and similar assets that are determined not to be fully collectible:

(1) Earned but uncollected interest income that was accrued in the current fiscal year and is determined to be uncollectible shall be reversed from interest income; and

(2) Earned but uncollected interest income that was accrued in prior fiscal years and is determined to be uncollectible shall be charged off against the allowance for loan losses.

§ 621.9 Reinstatement to accrual status.

A loan may be reinstated to accrual status, when each of the following criteria are met:

(a) All contractual principal and interest due on the loan is paid and the loan is current;

(b) Prior chargeoffs are recovered, except for troubled debt restructures;

(c) No reasonable doubt remains regarding the willingness and ability of the borrower to perform in accordance with the contractual terms of the loan agreement; and

(d) Reinstatement is supported by a period of sustained performance in accordance with the contractual terms of the note and/or loan agreement. Sustained performance will generally be demonstrated by 6 consecutive monthly payments, 4 consecutive quarterly payments, 3 consecutive semi-annual payments, or 2 consecutive annual payments.

§ 621.10 Monitoring of performance categories and other property owned.

(a) Each institution shall:

(1) Account for, report, and disclose to shareholders, investors, boards of directors, and the Farm Credit Administration all material items with respect to performance categories and other property owned in accordance with the rules and definitions set forth in this part and any other applicable requirements;

(2) In accordance with § 620.5(g)(1)(iv)(A) of this chapter, disclose to shareholders, investors, boards of directors, and the Farm Credit Administration the nature and extent of

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significant potential credit risks within the loan portfolio, or other information that could adversely impact performance of the loan portfolio in the near future;

(3) Develop, adopt, and consistently apply policies and procedures governing performance categories and other property owned, which, at a minimum, conform to the definitions, rules, and standards set forth in this part and such other requirements and procedures as may be required by the Farm Credit Administration;

(4) Review the loan portfolio at least quarterly to ensure that all high-risk loans have been assigned the appropriate performance category; and

(5) Review all high-risk loans in the loan portfolio at least quarterly to determine the collectibility of accrued but uncollected income, if any.

(b) Measures taken to enhance the collectibility of a loan shall not be deemed to relieve an institution of the requirement to monitor and evaluate the loan for the purpose of determining its performance status.

Subpart D—Report of Condition and Performance

§ 621.12 Applicability and general instructions.

(a) Each institution, including the Federal Agricultural Mortgage Corporation, shall prepare and file such reports of condition and performance as may be required by the Farm Credit Administration.

(b) Reports of condition and performance shall be filed four times each year, and at such other times as the Farm Credit Administration may require. The reports shall be prepared on the accrual basis of accounting and shall fairly represent the financial condition and performance of each institution at the end of, and over the period of, each calendar quarter, provided that such additional reports as may be necessary to ensure timely, complete, and accurate monitoring and evaluation of the affairs, condition, and performance of Farm Credit institutions may be required, as determined by the Chief Examiner, Farm Credit Administration.